

9 FAM 41.112 Validity of visa.

(TL:VISA-168; 08-08-1997)

(a) Significance of period of validity of visa.

(TL:VISA-2; 8-30-87)

The period of validity of a nonimmigrant visa is the period during which the alien may use it in making application for admission. The period of visa validity has no relation to the period of time the immigration authorities at a port of entry may authorize the alien to stay in the United States.

(b) Validity of visa and number of applications for admission.

(TL:VISA-168; 08-08-1997)

(1) Except as provided in paragraph (c) of this section, a nonimmigrant visa shall have the validity prescribed in schedules provided to consular officers by the Department, reflecting insofar as practicable the reciprocal treatment accorded U.S. nationals, *U.S. permanent residents*, or *aliens granted refugee status in the U.S.* by the government of the country of which the alien is a national, *permanent resident*, *refugee* or stateless resident.

(2) Notwithstanding paragraph (b)(1) of this section, United States nonimmigrant visas shall have a maximum validity period of 10 years.

(3) An unexpired visa is valid for application for admission even if the passport in which the visa is stamped has expired, provided the alien is also in possession of a valid passport issued by the authorities of the country of which the alien is a national.

[Amended by 62 FR 24331, May 5, 1997.]

(c) Limitation on validity.

(TL:VISA-2; 8-30-87)

If warranted in an individual case, a consular officer may issue a nonimmigrant visa for:

(1) A period of validity that is less than that prescribed on a basis of reciprocity,

(2) A number of applications for admission within the period of the validity of the visa that is less than that prescribed on a basis of reciprocity,

(3) Application for admission at a specified port or at specified ports of entry, or

(4) Use on and after a given date subsequent to the date of issuance.

(d) Automatic extension of validity at ports of entry.

(TL:VISA-44; 4-1-91)

(1) Provided that the requirements set out in paragraph (d)(2) of this section are fully met, the following provisions apply to nonimmigrant aliens seeking readmission at ports of entry:

(i) The validity of an expired nonimmigrant visa issued under INA 101(a)(15) may be considered to be automatically extended to the date of application for readmission, and

(ii) In cases where the original nonimmigrant classification of an alien has been changed by INS to another nonimmigrant classification, the validity of an expired or unexpired nonimmigrant visa may be considered to be automatically extended to the date of application for readmission, and the visa may be converted as necessary to that changed classification.

(2) The provisions in paragraph (d)(1) of this section are applicable only in the case of a nonimmigrant alien who:

(i) Is in possession of a Form I-94, Arrival-Departure Record, endorsed by INS to show an unexpired period of initial admission or extension of stay, or, in the case of a qualified F or J student or exchange visitor or the accompanying spouse or child of such an alien, is in possession of a current Form I-20, Certificate of Eligibility for Nonimmigrant Student Status, or Form IAP-66, Certificate of Eligibility for Exchange Visitor Status, issued by the school the student has been authorized to attend by INS, or by the sponsor of the exchange program in which the alien has been authorized to participate by INS, and endorsed by the issuing school official or program sponsor to indicate the period of initial admission or extension of stay authorized by INS;

(ii) Is applying for readmission after an absence not exceeding 30 days solely in contiguous territory, or, in the case of a student or exchange visitor or accompanying spouse or child meeting the stipulations of paragraph (d)(2)(i) of this section, after an absence not exceeding 30 days in contiguous territory or adjacent islands other than Cuba;

(iii) Has maintained and intends to resume nonimmigrant status;

(iv) Is applying for readmission within the authorized period of initial admission or extension of stay;

(v) Is in possession of a valid passport; and

(vi) Does not require authorization for admission under INA 212(d)(3).

(3) The provisions in paragraphs (d)(1) and (d)(2) of this section shall not apply to nationals of Iraq.

9 FAM 41.112 Related Statutory Provisions

INA 101(b)(5)

(TL:VISA-94; 9-30-94)

(5) The term "adjacent islands" includes Saint Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad, Martinique, and other British, French, and Netherlands territory or possessions in or bordering on the Caribbean Sea.

INA 212(d)(8)

(TL:VISA-2; 8-30-87)

For provisions of INA 212(d)(8), see 9 FAM 41.2 Related Statutory Provisions .

INA 221(c), in part

(TL:VISA-159; 12-20-96)

(c) A nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed. In prescribing the period of validity of a nonimmigrant visa in the case of nationals of any foreign country who are eligible for such visas, the Secretary of State shall, insofar as practicable, accord to such nationals the same treatment upon a reciprocal basis as such foreign country accords to nationals of the United States who are within a similar class; except that in the case of aliens who are nationals of a foreign country and who either are granted refugee status and firmly resettled in another foreign country or are granted permanent residence and residing in another foreign country, the Secretary of State may prescribe the period of validity of such a visa based upon the treatment granted by that other foreign country to alien refugees and permanent residents, respectively, in the United States.

[Added by sec. 631 of Pub. L. 104-208, Sept. 30, 1996.]

INA 222(g)

(TL:VISA-159; 12-20-96)

For provisions of INA 222(g), see 9 FAM 41.101 Related Statutory Provisions .

[Added by 632(a) of Pub. L. 104-208, Sept. 30, 1996.]

INA 281

(TL:VISA-2; 8-30-87)

The fees for the furnishing and verification of applications for visas by nonimmigrants of each foreign country and for the issuance of visas to nonimmigrants of each foreign country shall be prescribed by the Secretary of State, if practicable, in amounts corresponding to the total of all visa, entry, residence, or other similar fees, taxes, or charges assessed or levied against nationals of the United States by the foreign countries of which such nonimmigrants are nationals or stateless residents: Provided, That nonimmigrant visas issued to aliens coming to the United States in transit to and from the headquarters district of the United Nations in accordance with the provisions of the Headquarters Agreement shall be gratis.